

**Illinois Department of Revenue  
Regulations**

<b>Title 86 Part 440 Section 440.50 Tax Stamps—When and By Whom Affixed: License or Permit Required</b>
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**TITLE 86: REVENUE**

**PART 440  
CIGARETTE TAX ACT**

**Section 440.50 Tax Stamps--When and By Whom Affixed: License or Permit Required**

- a) The Department, or any person authorized by the Department, will sell tax stamps only to licensed distributors. It shall be unlawful for any person to engage in the business as a distributor of cigarettes in this State without first having obtained a license or permit therefor from the Department. Application for a distributor's license shall be made to the Department in form as furnished and prescribed by the said Department and shall be accompanied by a joint and several bond in the amount of \$2,500. Except when the applicant is the manufacturer, no distributor's license shall be issued to an applicant unless he presents the Department with satisfactory proof in writing that he will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. Each licensed place of business shall be covered by a separate license.
- b) The annual license fee payable to the Department for each distributor's license shall be \$250. The purpose of the annual license fee is to defray the cost, to the Department, of serializing cigarette tax stamps. Each applicant for license shall pay the fee to the Department at the time of submitting his application for license to the Department.
- c) All licenses issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- d) The Department may, in its discretion, upon application, issue permits authorizing the payment of the tax imposed by the Act by out-of-State cigarette manufacturers who are not required to be licensed as distributors of cigarettes in this State, but who elect to qualify under the Act as distributors of cigarettes in this State, and who, to the satisfaction of the Department, furnish adequate security to insure payment of the tax, provided that any the permit shall extend only to cigarettes which the permittee-manufacturer places in original packages that are contained inside a sealed transparent wrapper.
- e) All permits issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- f) The following are ineligible to receive a distributor's license or permit under this Act:

- 1) A person who is not of good character and reputation in the community in which he resides;
  - 2) A person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;
  - 3) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% (in the case of distributors) or 1% (in the case of out-of-State cigarette manufacturer permittees) of the stock of such corporation, would not be eligible to receive a license under this Act for any reason.
- g) The first distributor who delivers cigarettes or causes them to be delivered in this State to a purchaser must affix proper stamp or stamps to each original package of cigarettes before delivering the cigarettes (or causing them to be delivered) in this State to the purchaser, or (in the case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) to imprint the required language on the original package of cigarettes beneath such outside wrapper, as provided in Section 440.20(b) of this Part.
- h) On and after July 22, 1999, *no stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6 of the Cigarette Tax Act [35 ILCS 130], the Department shall revoke the license of any distributor that is determined to have violated this subsection (h). A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this subsection that the label or notice has been removed, mutilated, obliterated, or altered in any manner.* (Section 3 of the Cigarette Tax Act)
- i) On and after August 15, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (h) of this Section and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted in violation of the Cigarette Tax Act.
- j) On and after September 1, 1999, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (h) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.
- k) *On and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that:*

- 1) *bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording;*
- 2) *does not comply with:*
  - A) *all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 USC 1333; and*
  - B) *all federal trademark and copyright laws;*
- 3) *is imported into the United States in violation of 26 USC 5754 or any other federal law or implementing federal regulations;*
- 4) *the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States;*
- 5) *for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarettes Labeling and Advertising Act, 15 USC 1335a; or*
- 6) *has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:*
  - A) *any statement, label, stamp, sticker, or notice described in subdivision (k)(1) of this Section; or*
  - B) *any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 USC 1333. (Section 3-10 of the Act)*
- l) On and after July 15, 2000, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (k) of this Section and found in the possession of a distributor create a rebuttable presumption that the package of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted in violation of the Cigarette Tax Act.
- m) On and after July 31, 2000, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (k) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrapper or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.

- n) *On and after June 13, 2000, on the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month:*
- 1) *a copy of:*
    - A) *the permit issued pursuant to the Internal Revenue Code, 26 USC 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and*
    - B) *the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;*
  - 2) *a statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale;*
  - 3) *in addition to the statement required in subsection (n)(2) of this Section, a separate statement, signed by the individual under penalty of perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes;*
  - 4) *in addition to the statement required in subsections (n)(2) and (n)(3) of this Section, a separate statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:*
    - A) *the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1333 and 1335a, with respect to such cigarettes; and*
    - B) *the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-L13146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.*
- o) *The Department may revoke or suspend the license or licenses of any distributor, in the manner provided in Section 6 of the Cigarette Tax Act, if the Department determines that the distributor knew or had reason to know that the distributor was committing any the acts prohibited in subsection (k) of this Section or had failed to comply with any of the requirements of subsection (l) of this Section. In addition, the Department may impose on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5000. Cigarettes acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in*

*violation of subsection (k) of this Section shall be subject to seizure and forfeiture whether the violation is knowing or otherwise. (Section 3-10 of the Act)*

(Source: Amended at 27 Ill. Reg. 1618, effective January 15, 2003)